STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

S&S Towing, Inc. Petitioner.	:	RTV-A-58
Petition for a Relocation Towing & Storage Rate Increases	:	

ORDER

By the Commission:

PROCEDURAL HISTORY

On November 18, 2015, S&S Towing, Inc. ("Petitioner") filed a Petition with the Illinois Commerce Commission ("Commission") for Relocation Towing and Storage Rate increases pursuant to the provisions of Section 200(6) of the Illinois Commercial Relocation of Trespassing Vehicles Law ("ICRTVL"), 625 ILCS 5/18a-200(6) ("Law"). Petitioner seeks an increase in the maximum relocation towing storage rate it is allowed to charge from $196.00 to $216.00 per tow for light duty relocation tows. Petitioner seeks an increase in the maximum relocation storage rate it is allowed to charge from $40.00 per day to $45.00 per day for storage of light duty vehicles, after the first 24 hours.

Pursuant to notice given in accordance with the Law and regulations of the Commission, the Petition came on for status hearings before a duly authorized Administrative Law Judge ("ALJ") of the Commission at the Commission's offices in Chicago, Illinois on February 25, 2016, April 5, 2016, and May 3, 2016, and for a final evidentiary hearing on June 7, 2016. Petitioner appeared by counsel at the status hearings and at the evidentiary hearing. The Staff of the Illinois Commerce Commission ("Staff") was represented by the Office of Transportation Counsel at all hearings.

At the evidentiary hearing, Petitioner presented the testimony of Petitioner's President, George G. Urbieta. Petitioner offered its Exhibits 1 through 7, which were admitted into evidence. Staff served a Data Request to determine the reasonableness of the proposed rate increases. Petitioner provided Answers to Staff's Data Request. Staff offered its own Exhibits 1-2, which were admitted into evidence.

At the conclusion of the Evidentiary Hearing on June 7, 2016, the record was marked "Heard and Taken."

APPLICABLE LAW

Section 18a-200(6) of the ICRTVL, 625 ILCS 5/18a-200(6), provides in part:

"[t]he Commission shall:[s]et reasonable rates for the commercial towing or removal of trespassing vehicles from private property. The rates shall not exceed the mean average of the 5 highest rates for police tows within the territory to which this Chapter applies that are performed under Sections 4-201 and 4-214 of this Code [625 ILCS 5/4-201 and 625 ILCS 5/4-214] and that are of record at hearing; provided that the Commission shall not re-calculate the maximum specified herein if the order containing the previous calculation was entered within one calendar year of the date on which the new order is entered . . ."

STATUTORY CEILING

The current maximum rate for light duty relocation towing is $238.20 as set by Commission Order entered June 11, 2014 in docket RTV-A-54. The current maximum rate for storage of light duty vehicles after the first 24 hours is $45 per day as set by Commission Order entered July 11, 2007 in consolidated docket RTV-A-42 / RTV-A-43.

Petitioner's requested increased rates for both towing and storage are within the current maximum authorized rates. Petitioner seeks an increase from $196.00 to $216.00 for each light duty relocation tow, and an increase from $40.00 to $45.00 per day for storage of light duty vehicles.

PETITIONER'S EVIDENCE

The Commission has the authority to set reasonable towing and storage rates for commercial relocation towing subject to the established statutory ceilings. Petitioner is requesting that the Commission adjust the relocation towing rate that Petitioner may charge for light duty vehicles from $196.00 to $216.00, and the relocation storage rate that Petitioner may charge for light duty vehicles from $40.00 per day to $45.00 per day. The proposed Relocation Towing Rate is less than the current statutory ceiling established by the Commission in RTV-A-54. The proposed relocation storage rate does not exceed the current statutory ceiling established by the Commission in RTV-A-42 / RTV-A-43.

Petitioner's witness, George G. Urbieta, testified that the financial records of the Petitioner are kept in the ordinary course of its business. Data from such business records is provided to Petitioner's accountant. Petitioner's accountant assisted in the preparation of its 2014 Annual Report. Petitioner's other exhibits were compiled from Petitioner's financial records, including its Tax Returns and Annual Report to the Commission.

Petitioner's Exhibit 1 is Petitioner's Annual Report for Relocation Towers filed with the Commission for the year 2014. This is the only Annual Report for Relocation Towers prepared and filed by Mr. Urbieta. Annual Reports for Relocation Towers for the years 2012 and 2013 were prepared under prior ownership and management. Petitioner's Annual Report for Relocation Towers for the year 2015 is not yet due.

The operating ratio of a company is calculated by dividing its operating expenses by its operating revenues. If operating expenses and operating revenues are equal, the operating ratio will be 100. If operating expenses exceed operating revenues, the operating ratio will be over 100 and the company will be operating at a loss. The company would have to implement further cost-cutting measures in order to remain in business. If operating expenses are less than operating revenues, the operating ratio will be less than 100 and the company will have something left over after payment of operating expenses for profit and payment of non-operating expenses.

Petitioner's Exhibit 2 presents data from Petitioner's Annual Report for Relocation Towers for the year 2014. Petitioner had total net (after adjustment for revenues from sale of unclaimed vehicles as scrap and refunds) relocation operating revenues of $922,997.00, which includes $877,713.00 in relocation towing operating revenues and $45,284.00 in relocation storage operating revenues. Petitioner had total relocation operating expenses of $915,614.00, which includes relocation towing operating expenses of $870,533.00 and relocation storage operating expenses of $45,081.00. Petitioner's Exhibit 2 also calculates Petitioner's operating ratios for towing and storage of light duty vehicles from the 2014 data. Applying the methodology testified to by Mr. Urbieta, the Petitioner's total relocation operating ratio for 2014 for light duty vehicles was 99.2, its relocation towing operating ratio was 99.2 and its relocation storage operating ratio was 99.6.

Petitioner's Exhibit 3 re-rates Petitioner's 2014 relocation towing operating revenues and relocation storage operating revenues to reflect the impact of the proposed rate increases (increasing the relocation tow rate from $196 to $216 and increasing the relocation storage rate from $40 per day to $45 per day). Relocation towing operating revenues would increase by $129,142.00. Relocation storage revenues would increase by $5,660.50.

Petitioner's Exhibit 4 further re-rates Petitioner's relocation operating revenues to reflect a decline in the value of unclaimed vehicles sold for scrap. Petitioner's average revenue from the sale of a scrap vehicle in 2014 was $450.00. In 2015, that average revenue had decreased to $175.00. Overall, Petitioner's revenues from the sale of unclaimed light duty vehicles sold as scrap decreased by $18,102.00 annually.

Petitioner's total relocation operating revenues, after the adjustments shown in Petitioner's Exhibits 3 & 4, are $1,039,697.50.

Petitioner's Exhibit 5 re-rates Petitioner's 2014 Relocation Operating Expenses to reflect increases and decreases in operating expenses over 2014 levels. Storage lot rental expense increased from $8,167.00 per month in 2014 to $16,500 per month in 2015. Storage lot rental expense is projected to decrease to $13,000.00 per month in 2017, when Petitioner plans to move to a different business location, which will result in an increase in annual storage lot rental expense of $57,996.00 above 2014 levels. Additionally, the Petitioner has invested $65,000.00 into leasehold improvements at the proposed new business location, which

is amortized over five years at $13,000.00 per year.

Equipment rental expense decreased by $6,000.00 per year as a result of a reduction in rented tow trucks. This was partially offset by an increase in equipment purchase expense. Petitioner purchased an additional tow truck in 2015, for which the amortized expense is $4,817.00 annually. Petitioner has purchased additional cameras mounted on its tow trucks. The additional expense in 2015 was $8,423.00. Changing signs to display the new rates will cost Petitioner $40,567.00 per year. Petitioner has not increased the compensation paid to its drivers for several years and plans to increase driver compensation 10% as a result of the proposed rate increases. A proposed 10% increase in driver compensation will increase Petitioner's operating expenses by $16,687.50. Total relocation operating expenses for 2014, re-rated to reflect such increased costs, are $1,049,605.00. Petitioner's operating ratio based on the new totals would be 100.95.

Mr. Urbieta testified that Petitioner has implemented various measures to reduce its cost of operation and will continue to seek both operating revenue increases and operating expense reductions. In particular, Mr. Urbieta believes that, when the new and more efficient storage lot becomes available later in 2016, significant efficiencies will be achieved. The new lot has approximately four times the capacity of the existing lot. The result will be less time spent moving vehicles around to allow owners and operators to reclaim their relocated vehicles. Currently, routine maintenance and minor repairs are done by a vendor. The new storage lot will be equipped with two truck bays for performance of regular maintenance and minor repairs, which will then be performed on site, at significantly lower costs. Currently, some employees do their work at home due to a lack of sufficient office space at the existing storage lot. The larger office at the new storage lot will permit work which is presently done in employees' homes to be performed at the office, where greater management oversight will be possible.

STAFF'S EVIDENCE

Staff actively participated in the hearings, verifying the accuracy of the data contained in Petitioner's testimony and exhibits, and cross-examining Petitioner's witness at the evidentiary hearing.

Staff offered into evidence Petitioner's Annual Reports for Relocation Towers for years 2012 and 2013. Staff inquired on cross examination regarding changes in reported operating revenues and operating expenses from 2012 and 2013 to 2014. Mr. Urbieta testified that prior ownership had failed to turn over books and records from which such reports were compiled and that he, therefore, could not verify the correctness of the figures reported. Staff inquired as to the reason for the decrease in reported relocation operating revenues from 2013 to 2014. Mr. Urbieta responded that Petitioner's service had been poor during the period immediately preceding the change in ownership and that many accounts had been lost as a result. He added that, since the change in ownership was approved by the Commission, service has improved, many of the lost accounts have been regained during 2015 and 2016, and efforts to regain lost accounts will continue. Losses of $172,013.44 and $99,914.48 had been

reported by Petitioner in years 2012 and 2013. Mr. Urbieta testified that, despite the decline in revenues, Petitioner was able to report a modest profit of $21,502.00 in 2014 due to ongoing efforts to reduce operating expenses.

STAFF'S POSITION

Staff does not object to the proposed rate increases.

COMMISSION ANALYSIS AND CONCLUSIONS

Petitioner's profit margins, actual increased expenses, and projected increases necessary to remain competitive show that even with the requested rate increases Petitioner will be operating at a minimal margin. The requested increases are reasonable, fall within currently authorized maximum rates, and should be approved.

FINDINGS AND ORDERING PARAGRAPHS

The Commission, after reviewing the entire record and being advised in the premises, is of the opinion and finds that:

1. The Commission has jurisdiction of the subject matter and the Parties;

2. The recitals of fact set forth in the prefatory portion of this Order are supported by the evidence of record and are hereby adopted as Findings of Fact;

3. The record evidence in this proceeding establishes that the existing rates of $196.00 per tow and $40.00/day for storage for light duty vehicles are not sufficient to allow Petitioner to operate at a reasonable profit or to avoid a loss; it is fair and reasonable to increase the relocation towing rate paid by light duty vehicles which trespass on private property to $216.00 per relocation tow and $45.00/day for storage; and

4. The Petitioner's request comports with Chapter 625 ILCS 5/18a-200(6) in that the increased rates of $216.00 per light duty tow and $45.00 per day for storage of light duty vehicles do not exceed the mean average of the five highest rates for police tows within the territory, which was established as $238.20 per tow in RTV-A-54 and $45.00 per day of storage in RTV-A-42 / RTV-A-43 (consol.).

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that, pursuant to Section 200(6) of the ICRTVL, 625 ILCS 5/18a-200(6), upon entry of this Order, the reasonable rate for the removal of trespassing vehicles from private property by the Petitioner herein be increased from $196.00 per light duty relocation tow to $216.00 per light duty relocation tow.

IT IS FURTHER ORDERED that, upon entry of this Order, the reasonable rate

for the storage of light duty vehicles relocated by Petitioner be increased from $40.00 per day to $45.00 per day.

IT IS FURTHER ORDERED in accordance with Section 103 of the ICRTVL, 625 ILCS 5/18a-103, that this is a final Order subject to the Administrative Review Law.

By Order of the Commission this 20th day of July 2016.

[redacted]
BRIEN SHEAHAN
CHAIRMAN

JUDGE

SECTION CHIEF

ORDERS SUPERVISOR